

A
FULLER ANSWER
TO A
TREATISE

Written by Doctor *FERNE*,

ENTITULED

The Resolving of Conscience upon this Question,

Whether upon this Supposition, or Case (The King will not defend, but is bent to subvert Religion, Lawes and Liberties) Subjects may with good Conscience make resistance.

Wherein the Originall Frame, and Fundamentals of this Government of England, and the danger of damnation and guilt of murder fairely taken off the Parliaments Party, and justly charged upon their Adversaries: Together with those two Texts of Scripture are sufficiently cleared. *viz.*

R O M. 13. 1.

Let every soule be subject unto the higher powers: for there is no power but of God, The powers that be, are ordained of God.

I P E T. 2. 13.

Submit your selves unto every Ordinance of man for the Lords sake, whether it be to the King as Supream.

Done by another Author.

And by him revised and enlarged by occasion of some late Pamphlets, complaining in the name of the City against the Parliament.

L O N D O N,

Printed for *John Bartlet*, and are to be sold at the signe of the Gilt-Cup in *Pauls Church-yard*, neerto *Austins Gate*. 1642.

THE ANSWER

TO A

THE ATTEST

Written by Doctor FERNE

The Rejecting of Conscience upon this Question

Whether it is lawful for a King to suppress the Liberties and Privileges of the Commons of England

Wherein the Original Frame and Fundamentals of this Government of England and the Liberties of the Commons are fully and justly charged upon their Advantages

Two Texts of Scripture are sufficiently cleared

R O M. 13. 1.

Let every soul be subject unto the Lord: for the Lord is the Lord of God

1 P E T. 2. 13.

Submit yourselves to the Lord as to the Lord: for the Lord is the Lord of God

Done by another Author.

And by him revised and enlarged by occasion of some late Pamphlets

L O N D O N

Printed for John Baskett, and are to be sold at the signe of the Gilt Cup in Pauls Church-yard, neere Nether Gate. 1642.

A Premonition to the Reader, concerning the Author, and Subject of the Treatise here answered.

READER,

THis Treatise here answered, in the Title, or Beake of it, seemes with the Dove to bring an Olive branch of safety to the tossed Arke of Conscience; but doe but looke downe, and thou shalt see the Vultures tallons, carrying a firebrand, and hovering over the dying Carcasse of the State for a Prey: Be not like a Larke, dared into the net by a painted Hobby of pretended Conscience. Conscience is that new name which no man knowes but he that hath it, No man can write well of it, but he must (with Ezekiel) cate the Roll, he must be Subiect as well as Author, the experient herein are onely eloquent, When (as the Apostle speaks) a man is able to comfort others with the same comfort wherewith he himselfe hath been comforted of God. Conscience is a Diamond, and will be wrought on by nothing but dust of Diamond, such as contrition hath ground it to: Otherwise while men carry this Subiect, but as birds do meat to their young, in their Beakes, not Breasts, and doe but (as Seneca speaks) Discere Scholæ, non vitæ, hammering, and but suborning Learning into doubts, not deeds, they may (with this Treatiser) write Cases (i.) covers of conscience, but resolve none: How like the motion of a Puppet, the language of a Parret, is the best discourse in this subiect of conscience of the not interressed man? It would make Democritus burst againe with laughter, to see how like an Asse eating Thistles, loath to swallow them for feare of the prickles, a Doctor that is, or 'tis like would be a Court Chaplaine, or pluralist, to mumble this holy Thistle of conscience, lest he should swallow it, prickles and all: If such a one see nothing aright in this subiect, no marvell: Zachary will tell him the reason, he is an Idoll-Shepherd that leaves the Flock, and then the sword shall be upon his right eye, and it shall be utterly darkened, and the sword shall be (he sayes) upon his right hand too; it is very likely this Prophecy is become the History of these times, wherein the hands of such as have been questionlesse deepest in the present sword: No marvell then (I say) if such a one see nothing but with the left eye of preiudice, especially in the actions of a Parliament, that hath so neerly touched him in his free-hold, Voted away his Archdeaconry, it may be one or two of his Benefices, and which is worst of all, all his hopes of having more. Quis tulerit Gracchos? --- Quis tam ferreus ut teneat se? But to the Treatise, this onely by the way of caution, when you heare an Archdeacon talke of conscience, for the most part the Byas is not in the wood, it is but clapt on, to reach some tickler marke with.

Rev. 19.

Ezra 28.

3.3.

2 Cor. 14.

Zech. 11. 17.

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An Answer to a *Treatise* Entitled
The Resolving of Conscience upon this Question,

Whether upon such a supposition, or Case as is now usually made
(The King will not discharge His trust, &c.)

B Lowing aside the *Magistry* of the Title, *Author*, *Style* of this *Treatise*, as but the pin-dust of it, that gilds but intercepts the Letter: I finde the substance of it to be a groundlesse supposition of the Parliaments taking up Armes, upon a bare supposition of the Kings meere intention to subvert Laws and Liberties; for so we see the question it selfe is proposed: *Whether upon such a supposition? The King Will not, &c.* Here I confesse we have much of the *Chaire* upon the resolving part, but as much beside the *Cushion* on the supposing part; for who ever maintained that the Parliament might upon such a bare supposition of such a meere intention of the Kings, take up Armes, the actuall invasion of Liberties, invitation and detention of Delinquents from tryall by Law, to be a party in Armes against the Parliament, thereby to dissolve, or at least to remove it without the *House*s consent, flatly against a Law of this very Parliament, *Importation of forraigne Armes and Souldiers, illegall Commissions to imploy them, &c.* all voted in Parliament to have been done, amount to more then suppositions of meere intentions; but to passe by this (as the property of the *Ferne*, which uses to have a broad top, but a narrow roote) the thing that he prosecutes, though not proposes, is, that 1. *No supposition, or case can authorize Subjects to take up Armes against their King*; and then 2. *That such a case as the present Parliament pretends to have, it hath not*; and 3. *Therefore no Subject can take up Armes with a good conscience.*

The best way therefore of Answer, will be to cleare these three Propositions.

1. A Parliament of England may with good conscience, in defence of King, Lawes, and Government established, when imminently endangered, especially when actually invaded, take up Arms without, and against the Kings personall Commands, if he refuse.
2. The finall and casting result of the States judgement concerning what those Laws, dangers, and means of prevention are, resides in the two Houses of Parliament.
3. In this finall Resolution of the States judgement the People are to rest, and in obedience thereto may with good conscience, in defence of the King, Lawes, and Government, beare and use Armes.

These made good, the answer to his severall Sections will be very easie.

If any one thinke much I doe not answer the Doctor in his three proposed Resolves upon this Question, I answer, I am enforced to answer what he would say, for (to say truth) resolving, as he doth, upon a Question that never came in Question; That

That no conscience upon such a supposition as was never made, can have safe ground for such a resistance as was never undertaken, he sayes (upon the matter) nothing at all. Onely sets up an Army ingaged in a quarrell of his owne fancy, a Mawmet of his own dressing, which he cudgels into the Clouts he himselfe hath put it in: He disputes with his own corner Cap, and is his own John a Nokes, and John a Style both: much what as Mountebankes use to doe, who make wounds onely, the better to sell their playsters. And to answer him word by word, as he goes along in the Treatise (wherein for the more gravity and (it may be) the more to amuze and loose the Reader, he makes the Nominative case in every sentence, to give the Verbe twelve-score at starting) would swell the Answer into too great an affliction upon these dispatchfull and urgent times. How many weekes soever the Doctor hath been about the Treatise, it is well knowne to many, the answer cost not many houres the doing.

Propos. 1. A Parliament of England may with good conscience in defence of King, Lawes and Government established, when imminently endangered, especially when actually invaded, take up Armes without, and against the Kings personall Commands, if he refuse.

Before we judge of what a Parliament can doe in England, it will be needfull to know what kind of Government this of Englands is: We are therefore to know, that Englands is not a simply subordinative and absolute, but a Coordinative, and mixt Monarchy; This mixture, or Co-ordination is in the very Supremacy of power it selfe, otherwise the Monarchy were not mixt: all Monarchies have a mixture, or composition of subordinate, and under-officers in them, but here the Monarchy, or highest power is it selfe compounded of three Co-ordinate Estates, a King, and two Houses of Parliament; unto this mixt power no subordinate authority may in any case make resistance. The rule holds still, *subordinata non pugnant*, subordinates may not strive; but in this our mixt highest power, there is no subordination, but a Co-ordination: and here the other rule holds as true, *Co-ordinata invicem supplent*, Co-ordinates supply each other. This mixture the Kings Majesty himselfe is often pleased in His Declarations to applaud, as by a mutuall counterpoise each to other, sweetning and allaying whatsoever is harsh in either. The Treatiser himselfe doth no lesse, calling it, *That excellent temper of the three Estates in Parliament*, confessing them (there) to be the Fundamentals of this Government, and if Fundamentals, what subordinations (I pray) can there be in them? Fundamentals admit not of higher and lower, all foundations are principall alike: And I cannot but wonder that that position of the Observator, the King is *Universis minor*, should be by this Resolver, and others so much exploded, for if the temper (as hee speakes) of this Government be of three Estates, he need not buy the Almanacke (hee speakes of) to reckon by, that one is lesse then three.

But you'll say, what? is not the Parliament subordinate to the King? are they not all Subjects? I answer; The Parliament cannot be said properly to be a Subject, because the King is a part, and so hee should bee subject to himselfe: no, nor the two Houses without him Subjects: every member *seorsim*, taken severally, is a subject; but all *collectim* in their Houses are not, nay, Bracton the great Lawyer is so bold, as to say, The King hath above him, besides God, the Law, whereby he is made King, likewise his Court of Earles and Barons, &c. But we need not goe so nigh, it will serve our turne, if the Houses be in this mixture or temper of Government, not subordinate or subject,

Rex habet superiorem, Deum scilicet, item legem per quam factus est Rex, item Curiam suam, viz. Comitibus, Barones, &c. fol. 34.2.

then, if they doe as *Co-ordinates* should, supply each others failings, no *highest* power is resisted.

But you'l say, how can they which are every one apart *Subiects*, not be all *Subiects* in their *Houses*? Doth the *Kings Writ* *unsubiect* them? No, it was the *consent* of both *King* and *People*, in the first *coalition* or *constitution* of the *Government*, that makes them in their severall *Houses* *co-ordinate* with His *Majesty*, not *subordinate* to him, how else were the *Monarchy* mixt more then that of *Turkie*? But doth not the *Kings Writ* make them a *Parliament*? It doth ordinarily, in *actu exercito*, but in *actu signato* it is the *constitution* of the *Government* designs them to it, and accordingly provides for it in *annual*, or now *triennall* vicissitude; where note by the way, that whereas it is often urged, that they are but his *Councell*, to be called by him; it is true, that office is ordinarily betruſted to him, but they are by the first *constitution* not to be elected by him, but assigned to him, not assumed (as *Moses* his under-officers, of *Jethro's* advice) not onely the *Kings*, but the *Kingdomes Councell*, elected by it, not him, and have not onely a power of consulting, but of *consenting*: the *Writ* for the *House of Commons* is *ad faciendum, & consentiendum*, however, we know they must *consent* before it can be a *law*, whereby it sufficiently appears they are a *co-ordinative* part in the *Monarchy*, or *highest* principle of power, in as much as they beare a *consenting* share in the *highest* office of it, the making of *Lawes*.

But you'l say, can there be more then one *highest*? No, there is but one, but that one is a *mixt* one, else the *Monarchy* were not *mixt*.

But you'l say, how doth it appeare that the *constitution* of this government is such? I answer (besides His *Majesties* above mentioned confession, and the *Houses* share in the *highest* office of government, that of making *Lawes*) by the mutuall *Oathes* the *King* and *people* are to take to maintaine the *Lawes* that have so constituted it. * *Forrescue* is herein full and home, (i.) *The King* is to governe his *people* by no other then that kind of power which flowes to him from their consent, and that is a *politick*, not *regall* power. Now he that knowes any thing of *Greek*, knowes the word *Politick* implyes a *mixt* *Principate*, specially when oppos'd to *regall*.

But you'l say (with the *Treatiser*) the *King* is *King* before he takes his *Oath*. 'Tis true, but he is *King* but upon the same *trust* which his *Predecessours* (in whose right he followes) swore to; and the *Oath* which the *Law* provides for the *King* and his *Predecessours* to take, virtually binds him even before he take it, while he holds the *Kingdome*, but in the right of *succession*, for the same *Law* that conveyes upon him the *Crown* in right of *succession*, charges upon him the taking of the same *Oath* his *Predecessors* have done; from whom by that *Law* he claimes the *Crown*; in that respect it is, that the *King* is said in *Law* not to die, but *demise*, because they all still live in him.

But you'l say, 'Tis hard to apprehend how the same men that are all *Subiects* severally, should in their houses not be *subiect*, but *coordinate* with the *King*? It may appeare easily thus: a *Father* and a *Sonne* are by a deede of *enfœment* joyntly entrusted with certaine *Lands* to uses, the *Sonne* is still *subordinate* to the *Father* as *Son*; but as *Feoffee*, in the *trust*, hee is not *subiect* but *coordinate* and joynt with him. And therefore it is not a little to be wondered at, that so many, especially of the *Lords*, who are *Conciliarii nati*, borne *Councillours* to the *State*, in whom their shares both of *trust* and *interest* in this *Supremacy* of power in *Parliament*, the very *constitution*

* Ad tutelam
legis subdito-
rum. - Rex ta-
lis erectus est.

For Fol. 32.

And againe,

Ad hanc pote-

statem a populo

effluxa n ipse

habet, quo non

licet ei potesta-

te alia populo

suo dominari;

Fol. 25. b.

And yet againe

Principatu

namque ne dum

regali, sed &

politico suo po-

pulo dominatur.

it selfe of the government hath invested their very blood with, should be so much wanting to themselves, their Posterities, and it, as upon a bare whistle to desert that trust and interest in the government, which their Fathers with so much of their care convey'd upon them, and so much of their blood preserv'd for them; Their very stile Comites and Peers imply in Parliament a coordinative Society with his Maiesty in the government; they are in Parliament his Comites, his Peers. I know tis strongly alleadged that they could not stay with safety for routs and tumults: I must confesse tis much to be wish'd there had been none, but the Houses alleadged againe, they hindered them what they could, and there was no Law to punish them, specially comming but as Peritioners, and that his Majesties feare was so little from them, that the morrow after the greatest of them, he went into London with an ordinary retinue; and that most of the Lords departed not, till long after all was quiet: what had become of Israel, if Moses had left his charge upon every tumult? But of this but by the way.

The world hath been long abus'd by Court-Preachers (such may bee as this Doctor) first crying up the sole Divinity of Monarchy in generall, and then (what must follow) the absolutenesse of this in the Kings sole Person. No marvell, — *id sibi negoti* — by this craft they got their living. Now they doe (with this Resoluer) begin to fore-see and acknowledge, that if Monarchy were of morrall and speciall institution from God, it would at once condemne all other formes of government of reiecting a divinely morall, and therefore universall institution, and make this Monarchy as unlimited as any other; for what limits or afterbounds can man set to Gods speciall institutions? That there be in all Societies of men, a government (capable of it's end, safety) is out of question Gods institution, and morall; but that this government be so, or so moulded, qualified and limited, is as questionlesse from the paction or consent of the Society to be govern'd, *Hanc potestatem a populo efluxam Rex habet* (as Fortescue before) the qualification of the power is an eflux of the peoples consent, as the power it selfe (as the Doctor tels us) an eflux of Gods Providence; and to say truth, he himselfe acknowledges as much, confessing, *Thāt no particular forme of government is, jure divino*, it must be then *humano* sure, from the peoples consent.

Acts 19.25.

Fol. 25. b.

Sect. 3.

Ibid.

It was but a while since good Pulpit-stuffe with Court-Doctors, That safety being the end of government, and the King onely by God solely intrusted with it, hee was not bound by, or to any humane Lawes in the managing it to that it's end; hee was to use whatsoever the result of his owne iudgement concluded fit and conducing thereunto, nay hee was not bound to keepe any Oath he tooke to the people to be rul'd therein by Law; there could be no commutative iustice betweene him and them, onely distributive from him to them, so that all they had was his, to the very parings of their nayles, his Oath was but a peece of his Coronation show, hee might take it to day and breake it to morrow without periury, because hee was under a former and higher obligation to God (by whom onely he was trusted, and to whom onely accountable) to use whatsoever meanes he should thinke conducing to the end for which he had it onely from God: that the *Salus populi* committed onely by God, and solely to Him, was a Law betweene God and him onely, before all other Lawes, and therefore these must not hinder him in the discharge of that to God by any meanes, which hee should finde in his owne iudgement conducing thereunto the Oathes fault (not his)

was

(i) In an incautelous or ill vow the promise is not to be performed but the presumption is to be repented.

Acts 19.25.

An establish'd and known Law.

was in being taken, not broken. And to this purpose the whole body of the Cannon Law was mercilessly rack'd, and rak'd into, for rules miserably mis-applied, as *A turpi voto muta decretum, Quod in cautè vovisti ne feceris*, and *Non perficienda promissio sed penitenda praesumptio*, &c. yea, and some seeming Scriptures shamefully suborn'd too, as that of Davids confession, *against thee onely have I sinned*, spoken onely in respect of the secrecy of his sinne, and therefore 'tis added, *and done this evill in thy sight*, or because sinne is properly against none but God, being a transgression of his Law. As if the King tho' he be, *custos utriusque tabulae*, Keeper of both Tables, yet were bound to keepe onely the first, he owes no duty to man at all? And againe, that other of Davids praise, *My Lord the King is as an Angel of light*; now Angels are accountable to God onely, not men; and therefore the Oath the King takes is (forsooth) not to men but God; (whereas Divinity tels us the formall difference betweene an Oath and a Vow, is, that a Vow is to God, an Oath is by God, wherein there are three parties still, *who, by whom, & to whom*; belike then, if he swear to God, the people are the party by whom he swears: Nay, our own Dialect will tell us, That the King is our liege Lord, as well as wee his liege people, that is (as the word signifies) mutually bounden each to other.) All this and much more of this Demetrian divinity was ordinarily preach'd by these Court-Earwigs; and all upon this errour that the Doctor resolves on, that the sole Supremacy of power was in the Kings Person, and that His judgement was the sole Supream rule of that power. But we go on,

Now the end or purpose of this mixture of the three Estates in this Government, 'tis the safety of its safety, as all Government aymes at safety, to this temper in it at the making this safety more safe or sure: The common interest of the whole body of the Kingdome in Parliament; thus twisted with the Kings, makes the Cable of its Anker of safety stronger: So then, the government by Law its rule, unto safety its end, is ordinarily betruisted to the King, wherein, if he faile and refuse, either to follow the rule Law, or to its end safety, his co-ordinates in this mixture of the supream power must according to their trust supply. But you'l say, there is no written or fundamentall Law for this. I answer (to speake properly) if it be written it is superstrutive and not fundamentall, written Lawes, that were not Lawes before written, are re-pealeable and alterable, even while the government remains the same; fundamentals cannot: a foundation must not be stirr'd while the building stands; That of *Magna Charta*, where most of these fundamentals are (at least) implied was Law before 'twas written, and but there, and then, collected for easier conservation and use; but if we would know what is meant by those fundamentall Lawes of this Kingdome, so much jeer'd at in this and other Pamphlets; it is that originall frame of this co-ordinate government of the three Estates in Parliament consented to, and contrived by the people in its first constitution, and since in every severall raigne confirm'd both by mutuall Oathes betweene King and people, and constant custome time (as we say) out of mind, which with us amounts to a Law, wherein the rule is, *Quod non disprobatur praesumitur*, it cannot be disprov'd from taking place upon all occasions, therefore it is to be presum'd to have continued from the beginning, even in the Parliament Summons of Edward I. This Law is call'd, *Lex stabilita, & notissima*, even before it was a record.

Now as this mixture, the meane unto this fuller safety, dies not, 'tis not personall but

but incorporate, and corporations (the Law sayes) die not, so, that Reason or Wisdome of State that first contriv'd it dies not neither, it lives still in that wch the law calls the Reason of the Kingdome, the Votes and Ordinances of Parliament, which being the same (in the construction of the Law) with that which first contriv'd the government, must needs have still power to apply this coordination of the government to it's end safety, as well as it had at first to introduce it; otherwise it should not still continue in the office of a meane to it's end.

Here, in our present case the necessity of applying this coordination or mixture of the government is imminence of danger, which (if any man will make himselfe so very a stranger at home, and to all the world besides) as to deny it, the matter is not great, 'tis *coram non iudice*, it has another competent and entrusted judge, the two Houses (wherein the Law makes the Reason of the Kingdome to reside) who have by Vote concluded it; Nay, the Kings Maiestie himselfe acknowledges imminence of danger in his Writ of Summons, *Mandamus quod consideratis dictorum negotiorum arduitate, & periculis imminetibus*, imminent dangers: where, (by the way) we may take notice, that His Maiesty is by the above-mentioned fundamentall Law to call a Parliament when there shall be any imminent danger.

Well, in this imminent danger of the State, the meane thought fit by this the Kingdome's Reason to this end it's safety, is, the securing of its Militia: (the seeds of Reformation are to be sowne, and no man but makes his fence before hee sowes his seed; the State is in its unsound and rotten parts to be lanc'd, it may be dismembred, and who will goe about such a cure, but he will first binde the Patient) in this, the ordinary way is taken, by a Bill offer'd the King, he refuses to passe it; I know 'twill be said, he never refused to passe it: It cannot be deni'd but that he refused to passe it according to the advice of the Houses, which is (sayes the Law) the same ever-living reason of the State that first advis'd the government, and must still advise the way of applying it. But doth not this you'l say deny the King his negative voice in making Law? No, This Vote or Ordinance of the two Houses, 'tis not an Act of Parliament, or Law; 'tis but an occasionall supply of this coordination of the government (in case of one parts refusall) least the whole should ruine, and to continue but untill a Law may be had.

But you'l say, how, & where doth this Reason of the State thus residing in the Votes of Parliament, live in the intervals of Parliament. I answer, virtually it lives to the need of the State, in the present laws, the births of those votes, potentially in Parliaments to be call'd when there is need, it being but occasionall needs no continued actuall existence.

Well, hereupon the ordinary way of Bill failing, the Houses must not desert their trust, but apply it that way which by the first constitution of the government in such case is left them, that is, by their Votes and Ordinances, wherein (as before) the same Reason of the State still lives to pursue its safety. The King still persists in his refusall, and instead of passing a Bill for this secured Militia, raises an Army against their Ordinance for it, claiming the trust thereof to belong to him; they deny it not, so hee discharge it by this entrusted Reason of the Kingdome, the advice of Parliament. He will doe it, but it shall be by the advice of them against whom it is to be secured, whom the Parliament has Voted enemies of the State, and against whom especially it was first called. Now 'tis a rule in Law, *Interest reipublice ne suare quis male utatur*,

No man may use his own right to the *Common-wealth* wrong or damage; the *Law* provides, that a man *burne not his own Corne, drowne his own Land*; nay that a man *bind not himselfe from marriage, or the manurance or tillage of his own Land*, Because against the good of the *Common-wealth*.

Well, the *King* in steed of applying this trust of the *Militia* (ordinarily his) against these *voted* enemies of the *Common-wealths*, gathers those very enemies into an *Army* against the *Parliament*, that had *voted* them such, or which is all one, the *over-voting* party therein; 'tis certaine the *Law* allowes not the *King* without consent of *Parliament* to raise an *Army*, 'tis as certaine these men thus in *Armes*, tho' rais'd by his *Personall command*, are enemies to him in his *politick capacity* as *King*, because they are in *Armes* against *Law*, and so against the *Kingdome*, and so against him as *King*; who (tho' in place he be) cannot in *Law* be devided from his *Kingdome* or *Parliament*, no more then the *head* can from the *body*; nay, they are not only in *Armes* against *Law* (i. e.) without its authority, but against the very being of it which depends on *Parliament*. What shall the two other *Estates* doe? nothing but an *Army* is left whereby to repress these enemies of *King* and *Kingdome*; the third *Estate*, the *King* is so farre from joyning to raise an *Army* to that purpose, as he invites and detaines these enemies of the *Kingdome* from its iustice: What, but use that power in *Armes*, which the government in such case of the *Kings* refusall hath entrusted them with to its preservation, especially when 'tis but for the apprehending of such enemies to it, as (besides their *voted delinquency* by the *States* iudgement) are sufficiently convinc'd by their owne flight from its iustice; *qui fugit Legem fatetur facinus*, flight argues guilt alwayes. Every *Court* in its capacity, has power to apprehend and bring *Delinquents* to the iustice of it, and that by force, and if need be, by arming the *posse comitatus* to inforce it, and why not the *Parliament* the *regnall Court*, the *posse Regni*? An attempt to kill a *Judge* on the *Bench*, the *Law* makes treason and why? but because 'tis in his *Laws* and *Courts* that the *King* specially raignes, 'tis in them his *Crowne* and *dignity* is more specially impeach'd. But you'l say, 'tis the *King* makes it a *Parliament*, and he is not there.

To which I answer, in a *coordinate* and *mixt* government, one parts refusall exempts not the other from its duty, nor must it defraud the whole of its safety; so, it should frustrate the very end of that its coordination, which is (as we have seene) supply, for the more security of its safety.

Next, at all times the *Houses* are a part in the supremacy of power, and in case of the other parts absence and refusall both, *virtually* the whole, but more specially at this time, now the *King* hath bound himselfe by *Law* not to *dissolve* them without their consent: for however many stile them now in the *Kings* absence no *Parliament* at all, and his Majesties owne *Papers* have some expresses tending that way, yet I would faine know, whether their be now actually in *England* a *Parliament* or no? if there be not, how came it *dissolved*? the *King* hath bound himself from being able to *dissolve* it without their consent, they cannot without his, neither consent hath been obtain'd: Legally *dissolve* it he cannot by his removall, for, then he should be able to doe more by his absence then he can by his power, he should be able to keep and breake his *Law* at once, for the *Act* is against removall without consent as well as *dissolution*: and illegally *dissolve* it he cannot, if so *dissolv'd*, it would remaine a *legall Parliament*

Still

still, an *iniury* cannot take away a *right*. Well then, a *Parliament* it still remaines in his absence, and if a *Parliament*, why should it not have the power of a *Parliament*? a *Parliamentary* power is the inseparable adiunct of a *Parliament*: why not able then, in order to the end of a *Parliament* his and its preservation, and therein of the whole, to apply the power of that whole wherewith it is entrusted? why should the whole be frustrated of its safety, the end it first coordited, and thereby fitted the government to, by one part of that governments refusall, when the other part is willing? especially when that one part hath bound it selfe out from hindring the others willingness, willingness to preserve the whole, and in the whole that unwilling part too: however this Resolver slight the Observators Argument drawne from the highest end of government, the peoples safety, he cannot deny but that the rule holds alwayes, *finis quo ultimatio eo influxu potentior*, the highest end hath the strongest influence, to that end still all other subordinate ends stand but in the office of meanes, and this that very Text the Resolver so much clings to, evinces, where the higher power is call'd a Minister for thy good, The peoples good is the highest end of the highest power, and therefore that which gives essence and denomination to that power according to those rules in nature, *Finis habet rationem forma in moralibus*, the end hath the office of the forme in moralls, and *Forma dat nomen & esse*, the forme gives denomination and essence both, the end then being tho' last in the execution, yet first in the intention of the efficient, must needs qualifie and regulate the worke.

Rom. 13.

Yes, a fine way you'l say of preserving the King by fighting against him; no such matter, the King hath a double capacitie, politicke and naturall, in his politicke capacity as King, in fighting for the preservation of the Land and Kingdome they fight for him, what King could he be without a Kingdome to governe, and Law to governe it by? in that therefore the Law tells us, he cannot be severed from his Kingdome, or Parliament its representative body (tho' never so farre in Person distant from it) And in his naturall capacity, as a man, they fight not against him in that neither, they humbly beg his safer presence with them, at least his withdrawing from his, and their enemies; nay, they fight for him this way too, we never read of a King once unking'd but he is quickly unman'd too, thy fight to disingage and unthrall his Person from that unsafe and unworthy imployment those enemies to him and his Kingdome put it to, in making it a shelter, a breast-work, but a mudd wall to their owne dangers, which they feare from his own Lawes: for however his Majesty may be perswaded by them, 'tis his cause has engaged them, (most of them) 'tis their owne guilt and danger that hath engaged them, and engaged them to engage him: although in their mutuall engagements, they may think eithers turne served, it may be neither sufficiently knows who steers their course, what depth of water they draw; certainly, he that looks on the coniunctures of the late affaires of this and the neighbour States, but cannot beleeve (tho' unknown to his Majesty, and it may be many about him) that these long-spoones to feede with the Devill with (as one calls them) the Jesuites, both at home and abroad throughout most parts of Christendome have (tho' at a distance) the first and highest & therefore strongest influence into his Majesties present counsels, baiting their noseen hooks with his and his Armies interests, making them but to pull at the Oare while those sit at the stern: His Majesties aime (may be) is to bring his Crown out of Wardship, (as Lewis 11. of France bragged of his) his Armies, may be, many of them but at keeping their

their neckes out of the *halter*, but those *Basilisks* (that kill with their eyes at distance) looke further, and have their ends mingled with, and lapt up in these, upon Religion and the State both.

Proposition. *2.* The finall and casting result of this States judgement, concerning what those Lawes, dangers, and meanes of prevention are, resides in the two Houses of Parliament.

Well, in this mixture of the Monarchy or supreme power and trust of Government, the two Houses of Parliament making a coordinate part, what is their share? You'll say, they are the Kings great Counsell, but what, onely to consult? (Then questionlesse, he, and not we were to elect them, who chuses not his owne Counsell that he is but to consult with? No, but to consent with him in the making of Lawes the highest office of Government; but how a Councell voluntarily assumed by him (as *Moses* his substitutes in the *Wildernesse*) no, but assigned to him by the first constitution of the Government from the very same consent of the people that first made the King, and by succession him that King, in whom the first King still lives as in a Corporation (as the Law calls him) which dies not; For the Doctor dares not speake out, when he talkes of the Kings right by conquest to the Kingdome: *Conquests* (I confesse) may give such a right as *Plunderers* use to take in houses they can master, a *jus in re*, not a *jus ad rem*, (as the Law speaks) a *jus tenoris*, not a *tenorem juris*, a right of tenure, but no tenour of right; how, not only undoctoral, but how unchristian, inhumane a barbarisme is it, to talke of a right of Conquest in a civill, a Christian State? Were a Land inhabited by *Wolves* and *Tigers* onely conquest might give a right, because none could claim any other; but among men capable of, and invested in a right, there was never more then two wayes of alienation of a right, forfeiture and consent, and even in that of forfeiture there is a consent too implied, the condition is (therein) consented to, on both sides, and what forfeiture can there be where there was never any covenant? If Conquest may create a Title where there was none before, certainly it may make that Title as absolute & arbitrary as the Conquerer pleases, for what should let, where there needs no consent or covenant, and then, why might not much sooner a King in a limited Monarchy (as this is) make himself as Arbitrary as he pleased by Conquest? 'Tis easier to augment then to create: no, conquest may restore a right, forfeiture may loose a right; 'tis consent onely that can transact or give a right. And I cannot let passe how many wayes this Resolver abuses His Maestie herein: A Title he has (he sayes) by conquest; but he must not rule by it; a King as Conquerour, and yet he must not rule as Conquerour; what a strange Title is this that makes him a King, but gives him not any Rule? And how injurious doth he (herein) labour to make the King to His posterity, as well as rulelesse in himselfe? How much doth he wrong his inheritance that subscribes and swears to a limited Title, and has a free one the while to hold by.

Sect. 4.

Well, a power of consenting is of all hands agreed on to be in the two Houses, the faculty of *Legem dare* is not in difference, the question is about the *Declarative*, that of *legem dicere*, the Law is the rule, and cannot be framed without all the three Estates, but who must apply this rule by giving it the finall and casting resolution of it's sense? without which the Record is but the *Sheath*, 'tis the sense is the *Sword* of the Law; such a power or faculty there must be in every legall government, after all debatement to give Lawes their sense, beyond all further debatement, otherwise, there would be a *Processus infinitum*, debatement still upon debatement, and as nature avoydes infinitudes, so the Law

Law into inconveniences, even above mischiefs: and 'twere a defect of no lesse then infinite inconvenience to the end of the Law, Government: if this *decisive faculty* after the *debative* hath passed upon the sence of the Law, were not somewhere resident in the government; *Perfectum est cui nihil quod convenit deest*, and 'tis a monster in Nature, *quod deest necessarium*, That is perfect which wants not what is convenient, that a monster in Nature which is defective in what is necessary: And where should this faculty reside, but in the two Houses? in whose Votes the Law it selfe place that very same specifick reason of the Kingdome that at first contrived, and still animates the Government; and which ever since contrives the very Lawes themselves to be declared, (every one abounding most in his owne sense;) which thus we prove.

This Principle which all debates about the sence of the Law are to be resolved into without further debatement, must be either the Records themselves, or the Judges, or the King, or Houses of Parliament: Not 1. The Records, for thats the peculiar Priviledge of Gods word to be *autocriticall*, its own last Iudge, and even therein too, its he who was the first contriver, that is, the last Interpreter: God only could fore-see from the beginning, what doubts may arise about the meaning of any part of his Records, and therefore he only can supply and fit those with some other part thereof to interpret them; Mans Laws are therefore still liable to repeales and dispensations, because the makers could not fore-see how unfit they might prove for after times, and even then those repeales and dispensations given them are (in construction of Law) no other then interpretative still, it is interpreted that had their first makers of them lived to see their unfitness, they would have consented to those their repeales and dispensations; the Records then may be helps to their Interpreters, not the Interpreters, because 'tis they that are to be interpreted, they are the rule, they cannot be the hand too, to apply it; though penned with never so much care, time will weare them into a capacity, at least, of different senses to different understandings, and a difference or double sense cannot be this highest principle of resolution, there can bee but one highest.

Why not the Judges then? They take *solemnne oathes* to interpret Law aright; true, yet we see their interpretations and oathes too fall under further debatement still, witnesse (besides many other) the late case of Ship-money, the Oath they take 'tis to the State, and therefore that by its reason residing in the Votes of Parliament, is to iudge how truly they have kept it. It comes then to fall between the King and Parliament, which shall have it? both cannot, if devided, as now they are (at least personally) and the principle of *ultimat resolution* cannot be a divided one, for then it cannot resolve.

But you'll say, the principle of making Law is King and Parliament joyntly. True, joyntly, a joynt principle it may be, but not a divided one. But you'll say, if Lawes cannot when the principle is divided be made, nor must they in such a case be declared: I answer, there is more need of declaring old Lawes then of making new, a State may bee governed by the old ones without new; but not by the old ones without this finall resolution of their sence, they are of no use without it, the making of Law, is a standing permanent Act in fact, done at once, the applying them by their interpretations, a transient one, *in fieri*, alwayes a doing. But you'll say then, if this declarative power be so necessary, and so necessarily in the Houses, how shall we doe in the intervals of Parli-

Prov. 16. 10.
1 Sam. 29. 6.

Basil Dor.

Señ. 5.

ments? I answer, the judgements of inferiour Courts must stay further debates untill a Parliament be had to try those judgements by, which therefore should (by Law) be once a yeare (at least:) Well then, if this last casting principle be so necessary, and cannot be a divided one, why not the King? he cannot in himselfe be divided, the Parliament may? I answer, first, though the Members be divided, the maior part that carry the Vote cannot be: Next, this principle as it is thus necessary, so it must be a competent one too, and that requires two things, ability and fidelity; ability to know what he is to judge, and fidelity to judge but what he knowes aright; for matter of ability to take cognizance of the cause by; His Majesty often professes himselfe no Lawyer; therefore, in Law He judges not but by his Courts, in the meanest of which the sentence past stands good in Law, though the King by Proclamation or in Person should oppose it: whereas there is nothing more frequent or proper to Parliaments then to reverse any of their judgements: But the King (you'l say) has promises of assistance from God himselfe to enable him herein, *A divine sentence is in the mouth of the King, and his lips shall not transgresse in iudgement*; and againe, *My Lord the King is as an Angell of God to discerne betweene good and evil*; true, such Scriptures I know have been taught to speake what Kings can doe, instead of what Kings should doe, but these are no promises but precepts, at least but particular prayes of one, no generall claimes of all Kings, nay, one of the wisest Kings (and our too) experimentally confesses, *That with Kings 'tis so much the more hard to doe right, by how much 'tis so easie to doe wrong*; and indeed what would such a power be lesse then arbitrary, if what he please to declare to be so, must be Law, so, what vaine things would Parliaments be, what wilde things Kings, and what miserable things Subjects? But in point of fidelity, why not the King rather then the Parliament? Why may there not be a factious, packt or enslaved Parliament? as well as a wilfull flattered abused King? Yes, I confesse, 'tis possible, but nothing so likely, and it behoves the wisdom of a Government, where nothing can be contrived against possibility of miscarriage, to secure what may be against probability: So much the Resolver acknowledges, *We cannot* (he sayes) *expect absolute meanes of safety in a State, but such as are most reasonable*: now experience shews that most mens actions are swayed (most what) by their ends and interests; those of Kings (for the most part) as absolutenesse of rule, enlargement of Revenue by Monopolies, Patents, &c. are altogether incompatible and crosse centred to those of Subjects, as Property, Priviledge, &c. with which the Parliaments either ends or interests cannot thus dash and interfere, the Members being are all Subjects themselves, not only intrusted with, but selfe interested in those very Priviledges and Properties; besides they are many, and so they not onely see more, but are lesse swayable; as not easily reducible to one head of private interest; but by a neere equality of Votes (you'l say) in Parliament it may come to an odde man to cast by, and then the whole trust and interest both, lies in him wholly.

I answer, no such matter, *Ultimum Stillicidium non exhaustit Clepsydram*, the last odde sand doth not make the Houreglasse empty more then any of the rest, it doth but tell us when 'tis empty, suppose 200. of one side, and 201. of the other, the oddes is carryed by the one, but the Vote by the whole 201. the odde one tels us 'tis the maior part, but 'tis all the rest that make it so: so that we have, however the iudgement, trust and interest of 201. chosen men engaged in the equity and fitnessse of the Vote: this is

it that great Father of the Law, so much magnifies the wisdom of this Government in, *Dum non unius aut centum solum consultorum virorum, sed plus quam trecentorum electorum hominum, quali numero olim Senatus Romanorum regebatur, ipsa sunt edita;* and neare upon that number of 300. the maior part of both Houses falls to be.

Forres. cap. 18.

But you'll say, how if one or both Houses be divided, and that into equall Votes, how then is the principle either one, or able to resolve? I answer, *de impossibilibus non est deliberandum*, impossibles are not to be consulted on, it cannot be; for in such a case of either Houses, equality of Votes their severall Speakers have then, and not till then Votes to cast by.

But how yet doth it appeare, but that, at least, this power of last Resolution, is as Arbitrary in the Houses, as it would be in the King: I answer, it cannot be denyed nor avoided, but that as the Government, in the forme or qualification of it, was at first an act of the will, and so Arbitrary; so it still remaining the same, it must remaine somewhere arbitrary still, else our forefathers should not convey that same government to us which they began, but should binde us in that wherein they were themselves free: it is the priviledge of Gods Lawes onely to binde unalterably, now where should the arbitrarinesse of this faculty reside for the States use, but where it was at first, in the consent and reason of the State? which as, we have seene, the Law places in the Votes of Parliament, where this arbitrarinesse allayed and ballanced by number, trust, selfe interest, 'tis best secured from doing hurt; in the naturall body the will follows alwayes the last dictate or resolution of the understanding, and that, in this politicke body, being the wisdom of its great Councell, what so fit as it to give dictate to what necessarily remaines of will or arbitrarinesse in this faculty? the Resolver himself acknowledges no lesse, when he sayes *the King is to see with their eyes that are of different iudgement from him*: But yet further, if ability and fidelity make up the competency of a faculty to give Law its finall resolution by; why not then the Judges in the Chequer-Chamber, rather than the Members in Parliament? they for matter of ability are skil'd, and for matter of fidelity sworne, have more dexterity to iudge, and lesse liberty to erre: I answer, for their skils and oath, the Houses may make use of both if they please: it was the wisdom of this Government, considering mens aptnesse rather to warpe after their interests and ends, than to be kept upright by their skils and oathes, to trust it rather to many independent mens interests, than a few dependent mens oathes, every dayes experience tels us that interests are better State security than oathes, specially when those interests have, as here, the command of those oathes, to binde all that skill too to their service: besides, as their interests with us tye them more to doe a right, so our elections of them tye us more to suffer what they doe if not a right: because, what they doe, we doe in them, and selfe wrong is seldome selfe revenged, Lastly, if theirs be the finall iudgement what is Law then, *a fortiori*, much more when it is endangered, and the State in it? and what fitting meanes of prevention are to be used.

Sect. 5.

PROP.

PROP. 3.

In this final Resolution of the States judgement the people are to rest, and in obedience thereto, may with good conscience, in defence of the King, Lawes, and Government beare and use armes.

THis last and casting resolution of judgement then (we see) resides in the two Houses of Parliament, which are therefore called the great Councell, not of the King onely, but of the Kingdome, and therefore by it elected and entrusted, but how resides it in them? *infallibly*? as this Resolver imposes on their Idolizers (as he speaks) no: they are not therein in themselves *infallible*, but to us inevitable: our judgements are not enthralled, 'tis our interests are entrusted, and so, subjected to their decisions: our judgements are not *infallibly* guided from either erring with them or differing from them, but bound up in, and superseded by theirs from gain-saying or resistance; here then (we see) is no *Parliament Papacy* at all (as the Doctor pleases to descant) hee himselfe well knowes, that though the Pope claime an *infallibility*, and we deny it him, or a generall Councell either, yet we ascribe to a rightly constituted generall Councell, a power of binding all under it, from all maner of disturbance to its decisions; and why should a civill generall Councell of England have lesse power in it? yea further, why should we not (as we have bound our selves by our choyce and trust, externally to submit to their determinations, so) be enduced too, to beleve their joynt judgements better then our single opinions? their intelligence and assistance is, (in all likelihood) much better, I must confesse in the *Militia Ordinance*, my opinion (possibly) and anothers, of this, or that Lords fidelity, may incline us to thinke they might have been as well continued in their trusts: but why should we not beleve, we may sooner erre therein then they? wee know our own, we know not their informations, discoveries, reasons; the Law is called *mens sine appetitu*, a mind without passions, and the Law-makers should be (as neere as may be) so too, the *Parliament* a speaking Law, as the Law is a silent *Parliament*, Law-makers should be (as Aristotle speaks) rather λόγος then αἰσθησις rather reason then men, and (as he speaks) but λόγος ἐμφυλκός at most; but pieces of quick and walking reason; every Member of Parliament, ('tis like) is not such, yet certainly if some neighbour Members might personally hate this or that Lord, upon particular entercourse of wrongs, yet, no one Lord hath in all likelihood provoked the greater number of the Commons House, and 'tis that must goe to the displacing him; or if he should, 'tis very much if the other House should iumpe with all them in such a personall hatred.

Well then, we see what power the Law, through our trust, gives the two Houses, and all, in order to the safety of the King, Law and State; They iudge by the reason of this State, and rule of this Law (both residing in them) that all three, King, Law, and Kingdome, (in Law, as we have heard before not separable,) are not onely imminently dangered, but actually invaded by an Army, engaged by the adjudged forfeiture of their owne lives, there remaines no way in the highest result of the States reason to preserve these, and prevent those from apparent mischief, but an army to withstand this other army ready to advance, nay, in actuall attempts of hostility; of whom should this army of the State consist, but those who are endangered, nay, assaulted, yes, assaulted

assaulted, and *plundered* too, nay *murdered*, before in any Parliament army there was so much as a man *listed*, all before were but *Musters*, and *manning of Forts* for the Kingdomes better defence against Forraign dangers.

Well the case thus standing, this great *Centurion* of the Kingdome the Parliament (for the King refusing, we may now (better then our forefathers) give that name to the Houses) sayes unto one of this now necessarily yet voluntarily listed army *go, go and he goes, to another come and he comes, to a third do this and he doth it*; and wherein lyes now the unconscionableness of this obedience? it is *naturall* all the faculties and members in the naturall body are to the defence of the whole commanded to their offices by the understandings last *result* or *dictate*; it is *politick*, *prevention* is the right eye of policie, *recovery* is but the *left*, the *after game*. What other authority hath a Sheriffe or executioner to put a malefactor to death? but you'l say conscience must have some higher footing, tis Gods *Accomptant*, and must have his *warrant*; and it has that fully too: First, a *Warrant of Charity*, in the sixth Commandement, which not only forbids *murder*, but commands the *Preservation* of our owne and our neighbours lives. Secondly, of *justice*: *Render to all what is due*, and we have seen, that in case of the Kings refusall already voted by the kingdomes *Reason*) the command of the kingdomes power (in order to its *safety*) 'tis its *Concels due*.

Lastlie, of *obedience*, *submit your selves to every ordinance of man, and that for the Lord sake*, Sayes S. Peter, we have seene it was the ordinance of man, the first men that introduced the government of this State, and now of the men that are *ordained* to administer that government. *Let every soule be subject to the higher powers* (saith S. Paul) and that not *for wrath but conscience sake*, which place I shall sufficiently cleere anon besides David in his owne defence used an army, and (though against the King) yet is said to *fight the Lords Battells*: and acquitted from all guilt in it, even by his mortall enemy the King; now we have seen the Coordination of this highest power in this kingdom for its better safety, and therein the entyrenesse still of its efficacy to its end, though one part withdraw; if the King (especially now he has bound himselfe by Law not to dissolve this present *Coordination*) he should be able legally to break the *Law*, then his government were utterly *absolute*, or rather absolutely *impossible*, and *illegally* he cannot, for the Law hath provided that as King *he can do no wrong*, (I) nothing against Law, because he cannot, (in that capacity) be severed from his Parliament, and what they enact together is *Law*: So then the *Houses* commands are in this our case acts of the *highest power*, to which the Apostle bids us to be *Subiect*.

I do not say if any Souldier in this Army of the King and Parliaments (for we see legally severed they cannot be) do fight not satisfied in his own conscience, but that he sins, and that (as the Doctor urges so often) *Damnably*: I say only that he hath warrant enough for his conscience if he apply it, and if he do, the Doctors *Damnation* is not that of the *Apostles*, but much what of the nature of that of the *Damnees* of these times, and now these three Propositions being cleared, the Answer to the severall Sections of his Treatise will be both very short and easie. To answer that all his arguments and instances against resistance are *mis-scaned* in absolute Monarchies, whereas this of ours is *mixt* would serve the turne; however particularly thus,

The first Section containes little else then the laying down of the manner of consciences discourse, by *assuming* to the Proposition granted, and so *concluding* saying that

Note that the two Houses are usually in the Parliament Roles called the Parliament and their judgments on Delinquents, when not by Bill, is there called the Judgement of Parliament, although it be by the two Houses onely, and the King no party, as he is not when 'tis done, and not by Bill.

Rom. 13. 7.

1 Pet. 2.

Rom. 13.

2 Sam. 25. 28.

he there tells us, that all his fellow Divines deny to the King an arbitrary government, and yet in his fifth Section he tells us too that the chiefe power & finall judgment is in one & be that one: which what (I pray) amounts it lesse to, then an Arbitrary Government? and he denies that again too almost the next word, in his *omnibus ordinibus regni consentientibus*, for what consent of all needs there, if the finall Judgment be in one? now that (though the King in Person withdraw) there are *virtually, omnes ordines regni consentientes*, it hath sufficiently appeared; and for his person, if that were with them to consent or dissent either, doubtlesse there would be no resistance made at all.

The 2d. Section begins with certaine instances of resistance, as that of the people in behalfe of *Jonathan*, *Dauids* resistance, and *Elisba's*, proper enough to evince what they are urged for, *viz.* That a King may be resisted in his personall commands by his own Subjects but we make no use of them, need them not, and therefore need not answer the Doctors refutation of them, only (by the way) *Dauids* resistance was by an Army, and what use of an Army unlesse it may fight against, as well as avoyd the danger, besides 'tis said that (though against the King) he fought the battels of the Lord (as before) other instances he there hath against resistance, but all in simple & absolute Monarchies, those of the *Iewes* & *Romans*: nothing to our case: only take notice by the way, that those Monarchies were absolute and arbitrary not by conquest, but by consent of the people, the *Jewes* desired of God a King to be governed by, after the manner of the Nations (sayes the Text) which was arbitrarily (as the Doctor observes out of *Iustin*) and thereupon is it that God by *Samuel* tells them what such a King would doe to them, not what he might do (as the Doctor seemes to inferre from the place.) And for the *Roman Empire*, its arbitrarinesse was not introduced by conquest, but by consent of the Senat (how ever it may be awed thereto by Arms:) & for that Title of *succession* (he there speaks of) it no way excludes consent, for it begins first in the election & consent of the people, and *virtually* continues so still in the mutuall bonds of oaths between King and people, to governe and be governed by Lawes by them ioynly to be made.

But the maine substance of this Section is a couple of Texts, that of *Rom. 13.* and *1 Peter 2.* To the first we easily answer (if not written particularly to the *Romans*, who were under an absolute Monarchy, and so no more to concerne us then the *Judiciall Law* doth (*i. e.*) onely in the generall equity of obedience) yet suppose it referre to all government in generall, it makes (as 'tis often alledged) altogether for us; it requires obedience to ordained powers, (*i. e.*) legall commands, not wilfull pleasures of governors; now ours is ordained to be ordinate and mixt, and resides in that part of it from which the other, though withdrawing in person cannot take it, and to which the Law in such a case cleerly gives it, including (as we have seene) in it *virtually* the other part too, who in his politick relation cannot be thence (as King) divided: the meaning of the place then must be this; The powers that be (*i. e.*) so or so established by consent of man, are ordained of God to be obeyed; or it is Gods ordinance that men should live under some government, and submit without resistance to that kind of government they have by consent established, just (as *Saint Peter* followes him) to the ordinance of man for the Lords sake; when the *Papists* pressed with this Text, aske us why we, that are so much for obedience to higher powers, do not submit to the Churches highest highest power in the Pope? we answer, 'tis a usurpt, not an ordained power, *ulcus protestatis*, a tumor or wen, no part of the body, a power never either consented to by the body the whole Church, or substituted by its Head *Christ Iesus*. There are two kinds (we use to say,

1 Sam. 8. 5.
Section 4.
1 Sam. 8. 11.

say of tyranny, *regiminis & usurpationis*, that which is only of *Goverment*, though never so heave, yet must be endured, *not onely to the good* (saith the Apostle) *but the forward too*, and therefore I know no man that defends the ten Tribes revolt from *Rehoboam* as the Doctor insinuates. That other kinde of *usurpation* it hath no right, no *ordination* at all, and so no subiection due to it, in all power of government *Divinity* tells us there are foure things: the *institution*, the *constitution*, the *acquisition*, and the *use*: the two latter, *acquisition* and *use*, are confessed to be often times rather from the Devill by bribery, blood, rapine, and the like: the *constitution* alwayes from mans consent, the *institution* alwayes from God, so that here is more than Gods bare *permission* or *approbation*, either (as the Doctor charges us to hold) here is in every *ordained* power as well Gods *institution* of it, and *injunction* of obedience to it, as mans *constitution* of it: That there be a Government, 'tis of God, what this government shall be, whether *Monarchy* or *Aristocracy*: or if *Monarchy*, whether simple and meere subordinate, or mixt and coordinate? 'tis of man, so then, Let every soule be (subject to the higher powers, for the powers that be, are ordained of God (i.e.) therefore let every soule be subject to powers, not wills, because Gods providence hath instituted them, and so subject as mans consent hath constituted them: now we have sufficiently seene by the *constitution* of the power or government of this Kingdome, the Law (as the rule) is put into the hands of the two Houses of Parliament by their *Votes*, as it's reason, wherein we must rest, to be applied to its end, the safety of King and State.

1 Pet. 2. 18.
Sect. 6.

I wonder therefore the Doctor should so much insist on this Text, for if he cannot prove (what he indeede denies) the government to be *absolute*, and solely in the King, he cannot hence enforce obedience to his *personall* commands.

The next Text is that of 1 Pet. 2, *Submit to every ordinance of man*, wherein the Doctor hath espied a double *advantage*, one from the Greeke word *ἀνθρώπων* which rather signifies *humane* then of *man*, so that it is called *humane*, (i.e.) in or on man (as he would have it) as onely the *subiect* of it, not any way the *cause*: 'tis strange a Doctor of Divinity should trifle thus with Scripture, and as *Shoemakers* doe with their Leather, with his teeth stretch it thus to his *Last*, doth he not a few lines after acknowledge (to use his owne words) that the *forme*, whether *Monarchy*, or *Aristocracie* and *qualifications* of either *forme* (i.e.) if *Monarchy*, whether *absolute* or *tempered*, are not *jure divino*, what then? not *jure diabolico* sure, it must be *humano* then, and in *jus humanum*, as 'tis opposed to *divinum*, man sure is the cause and Author, and not the subiect only, nay, why should the word *humane* be there at all, but as contradistinct to what followes, for Gods sake? why, unlesse to make the sence this? that although the *ordnance* or government, in the maner of its *constitution* be from *man*, yet because in the necessity of its *institution* 'tis from God, submit to it though of *man* for the *Lords* sake.

His other advantage is in the words *supreme* and *sent*, the King as *supreme*, and such as are *sent*, i.e. (saies he) the *Parliament*: but the *Parliament* is call'd, not *sent*, a difference (at least) as great as betweene *too* and *from*; but we have already seene how the King is *supreame*, not (as those of S. Peters times) *absolutely* so, but in his *mixture* and *coordination* with his *Parliament*, in which every subiect is a subiect still (as the Doctor urges) but the whole a *coordinate* part with him in the *supreame*, otherwise they could not hinder him from *making* Lawes, not finally *declare* Law without him, the two highest acts of *Supreame* power.

The third Section especially contains two other texts of Scripture, the first of

Proo. 2. By me Kings Reigne. Answer, tis spoken of and by Wisdom, and doth she not as well say (as followes) by me Nobles and Senators decree Judgement? What is here said more of Kings Reignes, then of Parliaments Decrees, they should both be guided by Wisdom, that is all the place will beare.

The second place is that, *Psal. 82. 6. I have said ye are Gods; and doth hee not there too (when he speaks it) stand in the Congregation of the Judges (as the text speaks) reproving such as judge unjustly, and accept the persons of the wicked, all Rulers are Gods alike; (i.e.) Gods substitutes and representatives towards men; upon whom he derives some of his power and authority; doth not the Word of God come to them all alike (i.e.) as it followes in the Doctors owne words, a commission for the setting up of a governing power, whereof the manner of its constitution, he himselfe before confesses to be from the people, not God; did not this word come to Pilat, as well as to Caesar: Pilat had not his power but from above, (as our Saviour tells him,) as well as them the Doctor speaks of: I wonder touch not mine Anointed comes not in among the rest? (as usually it doth) a Text plainly spoken to Kings of Gods people, not to the people of Kings; they were (sayes the very Text) Kings whom he reproved for their sakes, saying, touch not mine Anointed.*

John. 10.
Psal. 105. 10.

However the Doctor is deceived in that of France which is in right a mixt government, still changed onely by usurpation.

What remaines in this Section, tis nothing else but a ieering the fundamentall Lawes of this Kingdome, so often mentioned by the Parliament, which what they are I have before shewed, not as the Doctor would have it the same with those of France, Turky, and all other Kingdomes, but proper to coordinate and mixt ones, and especily this.

The fourth Section is spent upon a confutation of any power in the people to reassume the power they first betruisted to the King, the which no man (for ought I know) maintaines, what neede the people reassume that which in the first Coalition of the Government they reserved (as hath appeared before)

The fifth Section. Here, we have nothing but strange involutions of the matter, and intranglings of the Reader, most what inconsistent as well as impertinent, one while the State hath meanes of preservation, such as the Law prescribes, and yet not twenty lines after, we cannot expect absolute meanes of safety in a State, meanes of preservation, but not absolute safety; if it be preserved; questionlesse tis absolutely preserved, *Dubiam salutem qui dat afflicto, negat*, he that gives not absolute safety, gives none; againe this chiefe power and finall iudgement (he saies) must be in one, scarce twelve lines after, but Parliaments (he sayes) are the onely remedy for the distempers of the Kingdome, Parliament is the onely remedy, and yet the onely iudgement is in the King.

And yet againe he tells us in the same Section, that that onely iudgement too of the Kings is to see with their eyes that are of different judgement from him. What remaines in this Section is a plaine begging of three questions he would faine have us to maintaine.

First, that every State, whether reserving it or no, hath this meanes of safety by resistance, &c to this purpose that of the Church is objected: a State indeed, but neither civil nor of its own constitution, this State Christ the head did not only institute, but constitute it too, and that without any concurrence of its owne consent. Then the Christians in Tertullians time are objected, as if they were a civil distinct State from the

Romanes

Romanes, in which they lived, or the *Roman* other then an *absolute Monarchy* by consent of the Senate (as before,)

A second question begg'd is, that in case the King and Parliament should neither discharge their trust, the people might rise and make resistance against both, a position which no man (I know) maintains, the Parliaments, is the peoples own consent, which once passed they cannot revoke; he still pursues his owne dreame of the peoples reassuming power, whereas we acknowledge no power can be employed but what is reserved, and the people have reserved no power in themselves from themselves in Parliament.

This groundlesse preassuming asperision of the people reassuming power, I wonder the Doctor so much insists on it: There is indeed a late sawcy scurrilous Pasquill that hath broken prison out of the Gate-house from a company of Delinquents there (and no marvell if such would reassume all Parliamentary power) by the resolving Title it should be a Journeyman of the same Trade to this of the Doctors; where after many stale malicious slanders on the Parliaments proceedings, disproved long since by almost every mans experience, as well as severall Declarations, all to disable the Parliament from the kingdomes urgent preservation by any way that the written Lawes prescribe not, (as if the circumstances and exigences of publike actions of this sort did not (above written Laws) warrant & even element their iustnesse) this raving *Bedlam*, I say, broke loose without a *Keeper*, deserving, as it professes to desire, no answer, one of *Vulcans* forge I confesse were best, fire of settors; threatens the peoples reassuming the entrusted power of Parliament, and with *Solomons* foole, *Pro. 26. 18.* throwing bout him arrowes and fire brands and death; complaining and threatning both (according to it's Title) concludes at length with this resolution, to lay hold of what is next at hand, to the reassuming this power; otherwise for ought I know this reassumption of power is like that *Popish* reassumption of the House of *Loretto*, a meere Castle in the ayre of the Doctors braine.

The third question in this Section begg'd is; that we hold the cause may warrant a resistance, and here we are told what the *Primitive Christians* suffered without resistance: and that the *Netherlands* had greater cause then we to make resistance, a contrary Religion was urged on them, whereas we have ours still offered us; no, we hold not what ever cruelty can be suffered cause enough to make resistance, 'tis not the cause, 'tis the constitution of the government, reserving in its coordination a power of resistance, in order to its preservation: otherwise were this an *absolute Monarchy*, should the King alone, or (as it is) should King and Parliament enioyne us all to deny Christ and worship the *Sun*, we were (though never so able) not to make any resistance but by suffering; the cause cannot alter the case here, 'tis the constitution must doe it: and yet His Majestie himselfe hath in the case of Religion given no small encouragement to Subjects resistance of their King, by his owne reassistance of the *Rochellers*.

The sixth Section contains in substance three bitter invectives, sharpned I beleieve at the *Philistines* forge (the Doctor speakes of) for they defie the host of Israel.

The first calls the Parliament, a prevailing faction of a few. Is the representative Body of the Kingdome become but a prevailing faction? and how a faction, if prevailing, though never so few, 'tis the major part prevails, and so prevailing is the Body, and can the Body make a Faction or Schisme from it selfe? if many of the Members withdraw, the more fault theirs, and shame too, to desert their trust: The Law and reason both

The Title of the Booke is
A Complaint to
the House of
Commons and
Resolution taken
up, &c.

Jur. of Courts
fol. 5. b.

tels us, That no man can take advantage by his owne default, so, all Parliaments and their Acts too, how easily might they be eluded? certainly what is punishable is not pleadable, and Crompton (we see) cites the Bishop of Wintons case herein, who was arraigned in the Kings Bench, for that he came to the Parliament and departed without its licence.

* Ordinarily
it is so unlesse
that Act might
possibly pre-
vent it.

The second invective is against the Parliaments hostile manner of proceeding in this their warre, His Majestie hath alwayes beene (he sayes) upon the defensive part, questionlesse he is upon the offensive part by whom the offence comes, and that is that part in this coordinate government (that in case of such danger) refuses to doe his part, and resists the other from making supply: Surely the Doctors Almanacke, hee speakes of, is an *Erra Pater*, for untill His Maiesty had hostily entred the Commons House, with the attendance of His listed Souldiery; they had scarce so much as a voluntary guard, and when they had one, 'twas not a guard on the Members safeties, 'twas rather on the safety of their late Act against dissolution, for * if at any time that House should have bin by force but kept one half day out of the place, where they had the day before appointed their next meeting, it had bin utterly dissolved: since then, the manning of Hull, and (after His Maiesty had in the name of a guard, raised an Army to take it from the Parliaments trust) Sir John Hothams humble declining His Majesties entrance, but untill he should acquaint the Parliament in discharge of his trust; what Hostilities were these? The setting the Militia by Ordinance (His Maiesty having received it) in order to His and His Kingdomes defence, where note that the Statute of 11. Henry 7. c. 1. which charges all the Kings Subiects with His and the Lands defence, makes the rule of that defence to be according to the duty of their Allegiance, and that bindes them to doe their duty whether accepted or no, and what hostility in all this? since then, looke downe through the sieges of Warwicke, Coventry, Banbury, Wells, Manchester, &c. even to Keinton, and what other resistance then defensive has the Parliament made? and even there too His Maiesty was but followed with a Petition (as Scotland had succesfully done before) untill he was pleased to turn back upon them and give fire.

The third invective in this Section, is against its distrust of the realky of His Majesties Protestations, to continue Religion, Lawes and Liberties, &c. To this, all that I have to say is, that be His Majesties Protestations never so reall and hearty, yet if there be in the Parliaments power a surer bottome to set these on, then the most reall purposes and protestations of a mortall man, they discharge not their trust if they doe it not: I know His Maiesty (besides his constant and fixed goodnesse of disposition) hath more and stronger ties upon him of honour, hazard, trust, then any else whoever; but all men must follow their principles, which in morales will and must vary with the last results of their iudgements, and even those in creatures that know not by intelligence as Angels, but discourse as men, are things that upon further light must vary too; the Law as we observed before is *mens sine appetitu*, a better bottome for government to stand on, then the most constant Resolution, or Protestation that ever meer man made, besides His Maiesty dispenses but by His Ministers, and then His Protestations rise to no more then this, That he Will governe us by such Lawes and Cannons as His Judges and Bishops will by their interpretations fit us with.

The seventh Section containes little more then a setting on the same charges with more

more bitternesse, calling the *Parliaments Declarations* wicked Pamphlets, false, odious, scandalous imputations of this giddy age, &c. wherein both his virulence and impotence at once appeares; in that (he sayes) he will with Michael use no railing accusations on the *Parliament*, and yet uses the most railing and accusing one of all other, in likening them as he doth, therein, to the *Devill the Arch rayler and accuser* both; if he looke but a little further then the place he above urged in the *Apostle Peter*; hee will tell them who they be that are thus presumptuous, and doe speake evill of Dignities, and that *Michael* did not so.

For those empty feares and ieaiousies, as he cals them, grounded on reports of forraigne power and preparations, the *Queenes Religion*, the great resort of *Papists* to His Majesty, His intercepting Irelands reliefe, &c. I have no more to say to these, then, that for the first; *abundans cautela non nocet*, State ieaousie it has no right-hand error, none on the excesse side, its extention intends it, the more the better, an *Enemy* is met any where better then within our owne doores; Besides, if forraigne States have (possibly) with their engagements altered their designs, may we condemne the vigilancy of ours that (may be) was it that diverted those designs from us; nor are those clouds yet so farre blowne over us, as the Doctor would have it, for ought I see they grow blacker still.

2. For the *Queens Religion* it was as well knowne (as he speaks) before as now, but (may be) not so justly feared, as since we heare of so many priests and Jesuits let out of prisons at back doors, of Popes Nuncio's and orders of Fryers in England, especially now, when we see a Popish Army raised in their defence, when the enemies of our State have armed the enemies of our Church against both.

3. For the resort of *Papists* to his Majesty, whom the Doctor cals such good Subjects, so much better then the *Parliament*: all that I will say is, that if such are become the Kings better Subjects, God help him, he hath but a few good ones left; what? such as professe to owe a greater subjection to a forraigne State, and a State, not only utterly crosse centered in its interest of State, but meritoriously malicious by its very Articles of Faith to this of his Majesties, these better Subjects then those of his great Councell? How will Rome ring of this suffrage from the mouth of a Protestant Doctor? And yet why not the best Subjects, if we may iudge by their usage? for all sorts of men we hear not one of them by his Majesties Army plundred yet; sure there is some Covenant, these *Egyptians* doors are sprinkled with somewhat questionlesse, they inioy this *Passeover* so solemnly.

Lastly, for interception of Irelands reliefe, if all the rest that was taken, was the Kings, because the Kingdomes, at least the poore Carriers horses were his own proper goods: Necessity is the excuse of all, but if in a mans choyce, it is no necessity at all, the definition of it is, *quod aliter se habere non potest* (i.) that can no otherwise be; well, necessity is pleaded yet, but on both sides, I pray God it be not shortly on backs and bellies too. I shall onely adde this short Prayer, and with my very soule I speake it, God blesse the King and send us peace, and if it must not be untill one side have prevailed, I pray God it may be that side that loves the King best.

A Postscript, Or shorter Answer.

IF any man list not to read all this that hath been here said in Answer to the Doctors Treatise, and yet would faine be satisfied, these few ensuing lines of the Doctors owne Discourse, may serve his turne, not onely to Answer what he hath said, but what can be said in this Subject.

The King is in this Monarchy to governe by Law, not Arbitrarily, (so the Doctor) 'tis in his Government by Law then, not His Arbitrary or Personall commands that He is the highest power, a Subject then may lawfully resist His personall commands, and yet resist no highest power, Next,

The King in judging what is Law, is to see with others eyes, tho' of different judgement from him (so the Doctor) but those eyes of highest judgement must needs be the eyes of his highest Councell, he then that resists the judgement of this highest Councell, resists the Law, and so the highest Power; it must be the same Law that makes the highest power, that makes us either Subjects in obeying it, or Rebels in resisting it.

FINIS.